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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,473	06/05/2001	Anatol y Nikolaevich Paderov	PADEROV ET A	5542

7590 03/27/2003

Collard & Roe
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EXAMINER
PADGETT, MARIANNE L

ART UNIT	PAPER NUMBER
1762	11

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

mk-11

Office Action Summary

Application No.	Applicant(s)
09/700,743	Paverov etal
Examiner	**Group Art Unit**
M.L. Padgett	1762

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 1/2/03.

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 16-30 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 16-30 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Interview Summary, PTO-413

☐ Notice of Informal Patent Application, PTO-152

☐ Other _____

Office Action Summary

1. The substitute specification is approved by the examiner, and appears to correct noted informalities in the specification.

2. It is noted that applicant's amendment is informal, since it does not show deletion of [as an anode] at the end of claim 16, step (ii) in the marked-up version, but as this is the only apparent informality with a corresponding reinsertion earlier in the phrase, the intent is obvious, and no corrective action appears necessary.

3. Claims 16-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While applicant changed the European nomenclature for Group IV A - VI A to the U.S. version IV B - VI B in the specification (p. 3-4) and in claim 28, independent claim 16 still has the old version and is now inconsistent with the rest of the specification, so that the meaning of the cathode metals as claimed is confusing.

Claims 16-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Since there are now no group IV A - VI A metals disclosed in the specification, these claims maybe considered to lack enablement. It is necessary to maintain consistent nomenclature throughout the specification and claims.

4. Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 still contains the relative term "high-energy" rejected in section 6 of paper # 8, on p. 4 therein. This problem was corrected in claim 16, but not 28.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kerber as applied in section 8 of paper # 8.

The article claims of 28^{+} describe a structure that is read on by Kerber. It does not matter if it got there in exactly the same fashion or not, as long as the structure is encompassed by the claim language.

7. Claims 16, 18-21, 23-24 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerber, in view of Suzuki et al (149) and Dearnaley (631), as applied in paper # 8, discussed in section 8 and 9 therein.

8. Claims 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerber in view of Suzuki as applied to claims 16, 18-21, 23-24 and 26-30 above, and further in view of Engel as applied in paper # 8, section 11.

9. From applicants' discussion (p. 7 of 1/1/03 response) of "vibromechanical treatment", it sounds equivalent to preening, in effects and/or mechamision, hence will be taken to be so, unless a more precise published definition is supplied.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerber in view of Suzuki et al and Dearnaley as applied to claims 16, 18-21, 23-24, and 26-30 above, and further in view of Kazakou (Ru 2113971).

In view of applicant's discussion of the meaning of claim 17, this rejection is being applied. Kerber does not have any discussions on whether or not any further finishing processes are applied to their turbine blades after their multilayer coating process, however Kazakou (2113971) discloses that shot preening (abstract, figure) is a finishing technique for related restructures that is considered a strengthening technology, therefore it would have been obvious to one of ordinary skill in the art to apply such techniques to Kerber's product as produced by the above combination, because it has been shown to have desirable effects for the product as a whole as a finishing technique.

11. Kazakou, RU 2176184 is cited as having equivalent teaching, but is not prior art.

12. Applicant's arguments filed 1/2/03 have been fully considered but they are not persuasive.

Applicants appear to discuss each of the primary and secondary references separately, and does not discuss the combination *per ser*, nor the motivation therefore. Discussions on time limits for performing subsequent ion implanting/treating steps are

not relevant, when the claims require no such limitation, nor when directed to materials that are not specifically claimed in a claim, such as the independent claims which are generic.

Note, as claim 17 was in sufficiently defined and could not be treated without supplied explanation, this rejection is properly made final.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication should be directed to M L. Padgett at telephone number 703-308-2336 on M-F from about 8:30 an – 4:30 pm; and FAX # (703) 872-9311 (after final); and 305-6078 (informal).

M. L. Padgett/mn 03/20/03
March 26, 2003

MARIANNE PADGETT
PRIMARY EXAMINER

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